

LBNL – PROCUREMENT STANDARD PRACTICES

Section: 42 Subcontract Administration

Subject: 42.1 Subcontract Administration – General

- PURPOSE:** This standard practice (SP) defines the duties and responsibilities required for effective administration of a subcontract.
- POLICY:** It is the policy of the Laboratory that all subcontract administration functions be completed in a timely manner and in accordance with Laboratory policies and procedures, good business practices, and the subcontract terms.
- SCOPE:** This SP applies to all subcontracts exceeding the small purchase threshold. (For administration of small purchases, see SP 13.1, *Small Purchases*.)

DEFINITION:

Subcontract Administration

Subcontract administration encompasses all activities and relationships between the Laboratory and the subcontractor that arise out of subcontract performance. Subcontract administration covers all dealings between the parties from the time the subcontract is awarded until the work has been completed, received, and accepted; payment has been made; disputes; if any, have been resolved; and the subcontract is closed.

PROCEDURES:

Consideration

When it is necessary to permit the subcontractor to deviate from the subcontract's specifications or delivery schedule, the integrity of the subcontract is maintained by obtaining consideration for the reduction in the subcontractor's obligations. No vested right of the Laboratory may be given or remitted away without some benefit obtained by the Laboratory. Consideration may consist of, but is not limited to, a decrease in unit price, cost, or fee; an advantageous change in invoice or FOB terms, or the method of shipping; or an upgrade in quality.

Objective

Subcontract administration ensures that the Laboratory obtains its needed goods or services at reasonable prices, with timely delivery and required quality, and that the subcontractor receives proper and prompt compensation.

The extensiveness of day-to-day subcontract administration will vary according to the type of subcontract, the commodity, the length of the performance period, the cost of the procurement, the complexity of the subcontract and its relationship with other programs, and the criticality of the subcontract. The degree of subcontract administration under cost-reimbursement and high value (>\$1 million) non-commercial blanket subcontracts requiring payment certification will necessarily be significantly

LBNL – PROCUREMENT STANDARD PRACTICES

Section: 42 Subcontract Administration

Subject: 42.1 Subcontract Administration – General

different from that under other types of subcontracts. Because cost-reimbursement subcontracts generally represent a broader work scope, reduced risk for the subcontractor, and a significantly different method of payment, they often result in unique administrative and legal issues, requiring a different degree of involvement by the procurement specialist. High value (>\$1 million) non-commercial blanket subcontracts requiring payment certification, by virtue of their increased financial exposure, also require more administrative oversight, such as monitoring of cost overruns or underruns and invoice verification by the procurement specialist (see SP 32.1, *Payments*). The procurement specialist shall work with the requesting organization to ensure that subcontract spending is monitored.

All subcontracts, however, should receive some degree of procurement specialist oversight in the general areas of responsibility discussed below to effectively administer the subcontract.

Determination of Administration Requirements

The subcontract must be reviewed to determine the deliverables, data requirements, and other activities necessary for effective administration of the subcontract.

Performance Assessment

Early and continuous evaluation of a subcontractor's progress toward completion and/or of the financial status of the subcontract can reveal problems that may be resolved before legal involvement becomes unavoidable and a dispute, or claim is inevitable. An arm's length but cooperative relationship with the subcontractor can help prevent problems from escalating.

Documentation

File documentation should be appropriate for the value of the subcontract and sufficient enough to establish the propriety of the procurement transaction and the reasonableness of the price paid. Any remedial action, such as negotiation of pricing adjustments, to mitigate potential problems should be executed promptly and adequately documented in the subcontract file.

Delivery

Subcontracts should be monitored for delays, schedule slippages, or inadequate quality delivery. The extent of monitoring depends upon the subcontract's criticality to the Laboratory's program or project. However, acceptance of late performance should not be risked in any procurement situation. By not modifying the subcontract and receiving consideration, the Laboratory risks waiving the negotiated performance schedule and, by inference, concurring in the subcontractor's actual performance schedule. If the late delivery results in harmful consequences to a critical Laboratory mission, recovering damages from the subcontractor may be impossible.

LBNL – PROCUREMENT STANDARD PRACTICES

Section: 42 Subcontract Administration

Subject: 42.1 Subcontract Administration – General

(See SP 49.2, *Termination for Default*, for further discussion.)

Expediting

In expediting subcontracts, preference should be given to expediting time-critical requirements, high-value subcontracts, and subcontracts with longer delinquency dates than others. Subcontractors with late deliveries should be immediately contacted by procurement specialists or support personnel to determine the reason for delayed deliveries and proposed rescheduled delivery dates. Subcontract files should be documented accordingly. Reports generated through the PeopleSoft Purchasing System and IRIS may facilitate in the expediting process.

Financial

The procurement specialist should, as appropriate to the particular subcontract:

- Negotiate work releases;
- Track indefinite-delivery orders;
- Resolve invoice problems in a timely manner in order to take full advantage of prompt payment discounts;
- Assess financial status of blanket subcontracts at the time costs reach of 75% subcontract value and within 90 days of expiration of term or contract funding;
- Monitor cost overruns or underruns;
- Verify invoices for conformance to subcontract terms on high value (>\$1 million) non-commercial blanket subcontracts and other subcontracts requiring payment certification (see SP 32.1, *Payments*); and
- Upon completion,
 - Ensure that all terms of subcontract performance are satisfied before final payment is made, and that
 - Incurred costs are reviewed against obligated funding and final invoice to determine whether excess funds can be deobligated by Accounting (see SP 42.4, *Subcontract Closeout*).

Government Property

Appropriate property clauses must be included in the subcontract. Increases or decreases in property furnished to a subcontractor generally warrant a negotiated adjustment to the subcontract price.

Property Management will work with the procurement specialist to ensure that the subcontractor establishes and maintains a system for identification, inspection, maintenance, protection,

LBNL – PROCUREMENT STANDARD PRACTICES

Section: 42

Subcontract Administration

Subject: 42.1

Subcontract Administration – General

and disposition of government property. The appropriate documentation needed by Property Management must be coordinated by the procurement specialist with the assistance of the subcontractor, Property Management, and the requester (see SP 45.1, *Government Property*).

Authority

Only the procurement specialist or his/her duly authorized representative is able to amend or modify subcontract terms or take any action to enter into a change or contractual commitment on behalf of the Laboratory (see SP 1.2, *Delegation of Procurement Authority*).

Changes

Numerous changes issued on a subcontract must be monitored for indications of possible problems, such as poor specifications, lack of administration, etc. All actions taken must be adequately justified, costed, and documented in the subcontract file (see SP 43.1, *Modifications and Changes*).

RESPONSIBILITIES:

Procurement Specialist

The procurement specialist is responsible for performing the following list of subcontract administration functions, to the extent they apply:

- Monitor and assess subcontractor performance for adherence to the subcontract;
- Monitor performance against a subcontractor's small and small disadvantaged subcontracting plans (see SP 19.4, *Subcontracting Plans*);
- Review, evaluate, negotiate, and execute supplemental agreements incorporating subcontractor's proposals resulting from changes issued under the *Changes* clause or other clauses providing for equitable adjustments (see SP 43.1, *Modifications and Changes*);
- Determine the allowability of costs and direct the suspension or disapproval of costs when there is reason to believe they should be suspended or disapproved;
- Prepare findings of fact and issue decisions under the *Disputes* clause on matters in which the procurement specialist has the authority to take definitive action (see SP 33.2, *Disputes and Claims*);
- Review and approve or disapprove the subcontractor's requests for routine and progress payments (see SP 32.1, *Payments* and SP 32.2, *Progress Payments*);
- Recover overpayments from the subcontractor;
- Certify invoices on all high value (>\$1 million) non-

LBNL – PROCUREMENT STANDARD PRACTICES

Section: 42 Subcontract Administration

Subject: 42.1 Subcontract Administration – General

commercial blanket subcontracts and other subcontracts requiring payment certification;

- Monitor cost overruns or underruns and negotiate and execute contractual documents deobligating or adding funds, as appropriate;
- Ensure that file documentation is appropriate for the value of the subcontract and sufficient enough to establish the propriety of the procurement transaction and the reasonableness of the price paid;
- Immediately contact subcontractors to determine the reason for delayed deliveries and document the file accordingly;
- Monitor subcontractor labor relations matters under the subcontract (see the SPs in Section 22);
- Negotiate and execute supplemental agreements on extension of subcontract delivery schedules (see SP 49.2, *Termination for Default*);
- Ensure subcontractor compliance with contractual quality assurance requirements (see SP 46.1, *Subcontract Quality Assurance*);
- Ensure subcontractor compliance with contractual environmental, health, and safety requirements (see SP 23.1, *Environment, Safety, and Health*);
- Ensure timely submission of required reports;
- Issue administrative changes that do not require subcontract funds;
- Negotiate and execute contractual documents for unpriced orders issued under Basic Ordering Agreements (see SP 16.4, *Basic Ordering Agreements*);
- Negotiate and definitize adjustments to subcontract price resulting from exercise of an economic price adjustment clause;
- Coordinate property issues with Property Management with the assistance of the subcontractor and the requester (see SP 45.1, *Government Property*);
- Review and approve invoices or resolve invoice problems in a timely manner (see SP 32.1, *Payments*);
- Process and execute novation and change of name agreements;
- Accomplish administrative closeout procedures (see SP 42.4, *Subcontract Closeout*).